IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2019 OF 2004

Lloyds Steel Industries Ltd. ... Petitioner

versus

The State of Maharashtra & anr. ... Respondents

...

Mr. Subhash Jha, for the Petitioner.

...

CORAM : A.M.KHANWILKAR,J.

21st October 2004

P.C.:

. Heard Mr. Jha. The Court below, applying the principle stated in the recent decision of the Apex Court in the case of Assistant Commissioner, Assessment-II, Bangalore and others v. Velliappa Textiles Ltd. and another, reported in (2003) 11 S.C.C. 405, held that no criminal action against the Company under section 420 read with section 120-B of the I.P.C. can be proceeded with. Accordingly, the Court below proceeded to discharge the accused No.1 Company. I find no reason to depart from the

said view taken by the Court below. Mr. Jha, however, contends that the decision of the Apex Court in the case of Assistant Commissioner (supra) cannot be pressed into service, especially when the minority view (of Justice Mathur), following earlier decisions of the Apex Court, has chosen to take a different view. Mr. Jha contends that it was not open to the coordinate Bench of the Apex Court to take a contrary view than the one already taken in the past by the Apex Court on the point in issue (in the case of M.V. Javali v. Mahajan Borewell & Co. and others, reported in (1997) 8 S.C.C. 72). I am afraid, it is not open for this Court to even entertain the submission as is canvassed by Mr. Jha. On the other hand, this Court is bound by the majority view in the recent decision of the Apex Court in Assistant Commissioner's case (supra). In other words, no fault can be found with the conclusion reached by the Court below in discharging the accused No. 1 Company. Hence, dismissed.

(A.M.KHANWILKAR,J.)